RECENT FINANCIAL INVESTIGATIONS BY THE INTERSTATE COMMERCE COMMISSION

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The act to regulate commerce gave to the commission, created by it, authority to inquire into the management of the business of interstate common carriers. No limitation upon the scope of inquiry so long as it concerned the management of the business of carriers subject to the act would appear to have been imposed. Under this authority, the Interstate Commerce Commission has apparently had power, at any time during its existence, to investigate not merely rates and traffic regulations but also any matters concerning operation and fiscal administration that it chose to be interested in. However, this large investigative power was allowed to lie more or less in abeyance, so far as the last mentioned aspects of railway management were concerned, for twenty-five years or thereabouts. To some extent, it was incapable of effective utilization on account of the failure of the original act to provide sufficiently complete control over traffic and fiscal records and accounts or adequate machinery with which to pursue inquiries of this kind. The Hepburn amendment of 1906 remedied this by definitely assigning to the commission such control and by authorizing the employment of special agents or examiners with full powers of investigation.

The half-dozen years immediately following the enactment of the Hepburn amendment were employed by the commission in molding into uniform pattern the myriad-shaped accounts of the carriers and in organizing a corps of inspection to assist in this desirable simplification. By 1912, the commission evidently felt itself in a position to make use of its strengthened facilities of inquiry, and, with admirable courage, determined to try its hand upon no less important a corporate body than that of the New York, New Haven and Hartford Railroad Company, including its ancillary member, the Boston and Maine Railroad.

For some time prior to the investigation undertaken by the

commission in 1912, there had been severe criticism of the operating and financial methods of the New Haven system. The investigation, into which the commission entered as the result of an informal inquiry by one of its special agents, turned out to be a most extensive one, the hearings consuming thirty-seven days and resulting in over six thousand pages of type-written testimony. The report of the commission published in the summer of 1913[1] stirred the interest of Congress, and, in the following February, the Senate passed a resolution instructing the commission to re-open the examination of the affairs of the company and to make further investigation of its financial transactions. In accordance with these instructions, a still more intensive examination was undertaken, in the course of which nearly forty persons were placed upon the stand—their testimony and the exhibits in connection with the case requiring two thick volumes for their printed presentation.[2]

Very soon after the election of Mr. C. S. Mellen to the presidency of the New Haven road,[3] that company proceeded to extend its control of trolley lines in southern New England by bold and hazardous steps. To this end it organized the Providence Securities Company which exchanged its 4 per cent debentures, guaranteed by the New Haven road, for the whole of the securities of the Rhode Island Securities Company, a company which the United Gas Improvement Company of Philadelphia had organized, in July, 1902, to hold the capital stock of the Rhode Island Company, the last named being the operating company (organized in June, 1902) controlling, under 999-year leases, about two hundred and forty miles of trolley lines in Rhode Island. The cash investment of the last named company appears to have been but little over nine and one-half million dollars but, in its determination to secure a monopolistic grip of the trolley situation, the New Haven spent in money and securities over twenty-four million dollars, an astounding expenditure in view of the fact that from the organization of the Rhode Island Company until its purchase in 1906, it had failed to pay a dividend; indeed, its income account showed a surplus of but

[1] *27 Interstate Commerce Commission Reports*, pp. 560–617. The New England Investigation.

[2] 63d Congress, 2d session, 1913–14. *Senate Documents, vols. 19 and 20.*

[3] November, 1903. Mr. Mellen had been president of the Northern Pacific Railway Company from 1897, and previously, for several years, vice-president of the New Haven road.

$397,000 up to June 30, 1908. It was part of the agreement with the United Gas Improvement Company that the New Haven should also take over the Connecticut trolley lines, and here again a sum was paid considerably in excess of their value—$10,000,000, according to former president Mellen's testimony.

That the New Haven management was prepared to make the most extravagant expenditures in its endeavor to suppress competition is further illustrated in its acquisition of the New York, Westchester and Boston Railway Company, a property which ultimately cost it nearly thirty-six and one-half million dollars for a line of eighteen miles in length.[4] The acquisition was undertaken by a special committee with power to act, composed of J. P. Morgan, William Rockefeller and G. M. Miller, with President Mellen *ex-officio*. This committee was appointed by the standing committee of the Board of Directors after Mr. Mellen had made a statement concerning the "proposed competition between the Connecticut State line and the Harlem River." Five days later (September 22, 1906), this action was approved at a regular meeting of the full Board, fifteen of the directors being present. The report of the Interstate Commerce Commission [5] states that the full Board was not taken into the confidence of those directors who wanted the Westchester securities purchased. However, the testimony seems to indicate that, in appointing this committee in such general terms, the directors were aware of the purpose of their vote, though not anticipating so heavy a purchase price as was actually paid. [6]

Some thirteen months later, the Morgan-Rockefeller committee reported to the Board that it had secured control of the properties at a cost of more than eleven million dollars. For this large expenditure, the New Haven became the possessor of two "beclouded" franchises for lines parallel and in close proximity to its own tracks. The tangible assets underlying the Westchester

[4] The line extends from 174th St., New York City, a distance of 6.83 miles to Mount Vernon (four tracks), thence bifurcating into two double track lines, one to New Rochelle (2.16 miles) and the other to White Plains (9.04 miles). A perpetual lease gives also the use of the 3.72 miles of track between 174th St. and the Harlem River over the tracks of the Harlem River and Port Chester Railroad.

[5] *31 Interstate Commerce Commission Reports*, pp. 32–132.

[6] See 63d Congress, 2d session. *Senate Documents, Vol. 19*, p. 1015, Testimony of [Director] William Skinner.

and Port Chester companies and the City and County Contract Company (the construction company), at the time of the acquisition of the property by the New Haven, would seem to have been about four million one hundred and sixty thousand dollars. Both franchises were being attacked in the courts and an application for permission to consolidate the two projects and construct but one road was held up by court injunction. To straighten out the legal tangle and to secure the necessary amendments to the franchises, President Mellen, with the aid of the late Thomas J. Byrnes, sometime inspector in the New York police force, expended an additional $1,500,000, the trail of this expenditure being hidden by the transfer of New Haven securities to its subsidiary company, the New England Navigation Company, which thereupon transferred them to its President, who happened to be the same C. S. Mellen that presided over the parent company. The outlay of this money secured for the New Haven road the control of 30,431 of the 34,053½ Westchester shares still outstanding, worth, as Mr. Mellen cynically testified later, about ten cents a pound. The Interstate Commerce Commission, in its report, had no hesitation in charging a corrupt purpose in the manipulation of this expenditure. In addition to the above payments, a further $1,400,000 was paid out in settlement of the claims of parties in control of the Port Chester Company, and of the damages accruing to Thorne and Perry (who had been acting as agents for the New Haven in securing the property) on account of the rescission of their contract. In the course of the investigation by the Commission, it seems that Thorne and Perry failed to account for $1,032,000 of the moneys expended by them.

Thus it appears that the Morgan-Rockefeller committee of the New Haven Board was responsible for disbursing over fourteen million dollars for tangible assets, as already stated, of a little over four millions. To complete the construction of the road, $22,000,000 was required, thus making $36,000,000 in all, the fixed charges involving a payment of $1,250,000 per annum beyond the earnings, and according to the testimony of the President of the road, the earnings at the time of the investigation were less than 25 per cent of the amount necessary to make the property self-sustaining. Such finance savors of monopoly mania. That such eminent financiers should have been responsible for it makes the matter only

the more astounding. To judge from Mellen's testimony, the relation of the highly paid President of a most important railway company to the late J. P. Morgan resembled nothing more closely than that of the office boy to his "boss." The evidence does not reveal the underlying purpose of Mr. Morgan in putting this deal through and it might be said that, in reply to a direct inquiry from the present chairman of the New Haven, the firm of J. P. Morgan and Company asserted that in the course of the twenty years prior to December 4, 1913, they realized a total net profit of not more than approximately $350,000 from the handling of the securities of the New Haven and its subsidiary companies.[7]

The Billard transactions afford another example of the New Haven's financial extravagance, as also of its defiance of statutory regulation. The space at our disposal will not permit us to enter into detail, but, in brief, these transactions arose out of a decision of the Supreme Court of Massachusetts which made it very clear that in acquiring a substantially controlling interest in the Boston and Maine Railroad, in 1907, the New Haven had acted illegally. The stock had been acquired in the name of the New Haven's subsidiary, the New England Navigation Company. Accordingly, the New Haven proceeded apparently to divest itself of the property by having the Navigation Company sell the stock to a Mr. John L. Billard. However, within about a year after this sale, the New Haven succeeded in securing the passage of a bill by the legislature of Massachusetts authorizing the incorporation of the Boston Railroad Holding Company with power to acquire and hold a majority of the stock of the Boston and Maine Railroad (June 24, 1909). Thereupon, Billard was induced to sell back the stock to the Navigation Company which transferred it to the new holding company. But when investigation came to be made, it was obvious that at no time during the couple of years covered by these transactions had the New Haven really relinquished its control of the Boston and Maine. Billard, a coal merchant of Meriden, Conn., was by no means in a financial condition to handle such a large deal. Actually he did not put out a dollar of his own money. He did not even handle the shares. The $13,750,000 representing the purchase price was raised by an advance of $11,000,000 by the National City Bank of New York, on the stock deposited as col-

[7] See *Railway Age Gazette,* March 13, 1914.

lateral, and the balance of nearly two and three quarter million dollars was then taken care of through the acceptance by the Navigation Company of an unsecured note of Billard's. Nevertheless, Billard would seem to have pulled $2,748,000 out of the business, for the securities were sold to him at $125 and bought back at $150 per share, and this despite the understanding of the Board of Directors of the New Haven that Billard was to receive only a reasonable compensation for the service he performed. Billard, by the way, took care to burn his books and papers, presumably to avoid embarrassment from any examination of them.

The monopolistic ambitions of the New Haven management extended not only to control of electric trolleys and suburban and main line railroads, but also to that of water communications. Adopting its usual methods of "dummy companies and dummy officers and directors," the railroad acquired control of half a dozen of the leading steamship lines of New England at a total cost of nearly twenty-five million dollars for property with a physical valuation of about ten million dollars.

Space will not permit a description of the questionable practices of the New Haven in the manipulation of its accounts, of its advances to subsidiary companies to enable them to pay dividends which in turn were credited to the former road in its income account. The commission states that

> the accounts of the company are replete with instances in which profits have been declared to be earned by the transfer of stocks, bonds, and debentures, and securities of one of the subordinate and subsidiary companies of the New Haven system, to another such subsidiary, and such profits are solemnly recorded as real profits in working up the accounts of the system as a whole.[8]

Purchases of supplies to large amounts were made without bids, and frequently from companies having men as directors who were also on the Board of the New Haven. Lavish contributions to both political parties were made, large sums were expended to "educate" public opinion; one well known professor of law in New England was paid $10,000 a year, besides payments to his brother and father of $25 and $50 a day.

The commission estimated that the loss to the New Haven Company through waste and mismanagement, amounted to between $60,000,000 and $90,000,000, the burden of which will be a

[8] *31 Interstate Commerce Commission Reports*, p. 59.

heavy drain for many years upon its resources. Undoubtedly, the present management, under the very capable direction of Mr. Howard Elliott, in whose unimpeachable honesty the public has every confidence, will ultimately be able to restore prosperity to the undertaking, but the task will be a difficult one. The new administration, before the opening of the investigation ordered by the Senate, had already entered into an agreement with the Attorney General of the United States to divorce the New Haven Company from the Boston and Maine, the trolley lines, and most of the steamship lines, and certain other steps had also been taken to free the company from the responsibility of those subsidiary companies whose association with it had been criticized.[9]

Just about the time that the first New Haven investigation was drawing to a close, and before the commission had issued its report thereupon, one of the well-known western railways, the St. Louis and San Francisco Railroad Company, along with its subsidiary, the Chicago and Eastern Illinois Railroad, went into the hands of receivers. The receivership caused a good deal of comment and finally led to resolutions by the United States Senate, in the following June and July, instructing the commission to report to that body all the facts connected with the purchase of the Chicago and Eastern Illinois Railroad, and the St. Louis, Brownsville and Mexico Railroad by the Frisco company, and also with the subsequent receiverships. The testimony secured for this report [10] evidenced a policy on the part of the Frisco management that was marked by a high degree of financial recklessness. It seems that, between 1897 and 1907, the Frisco undertook an extensive program of acquisition of new lines, constructed by syndicates with the probable understanding that the former would purchase them after completion. There is some evidence to show that the prices paid for these properties netted large profits to the subscribers. Officials of the Frisco, including the chairman of the Board of Directors, seem to have participated freely in these dealings. A somewhat spectacular example of Frisco financing occurred in the case of the South Texas lines. In its endeavor to secure a through coast route

[9] A full statement of the action taken by the new management, and of the terms of the agreement with the Department of Justice will be found in the *Railway Age Gazette*, April 17, 1914.

[10] *29 Interstate Commerce Commission Reports*, pp. 139–211.

between Brownsville, Texas, and New Orleans—a rather remote traffic interest—the company advanced $33,000,000 for the construction of lines and the acquisition of control of existing companies. The loss to the Frisco on these transactions, including discounts, commissions and an unliquidated sum of $5,000,000 due to it by the New Orleans, Texas, and Mexico Railroad, amounted to more than eight million dollars. Neither the Brownsville line, nor the New Orleans, Texas and Mexico has met its fixed charges since 1910.

Prior to this, the Frisco had heavily involved its credit in gaining control of the Chicago and Eastern Illinois Railroad. The basis upon which the latter railroad was acquired in 1902 made it essential that the Frisco should receive regularly dividends of 6 per cent on the preferred stock and 10 per cent upon the common stock of the Chicago and Eastern Illinois, in order to pay the interest charges on the stock trust certificates with which it had obtained the securities of that company. Actually, the dividends paid by the common stock were insufficient to meet the interest charges, and, to May, 1913, the Frisco had suffered a loss thereupon of over two million dollars or, deducting the interest on the stock certificates owned by it, a net loss of $1,710,000. After December, 1911, the subsidiary road ceased to pay any dividends at all. The price paid by the Frisco to secure this line of entry into Chicago seems to have been an extravagant one when comparison is made with the dividend earning power of the Chicago and Eastern Illinois prior to the acquisition.

An optimistic view of the effect of the Frisco alliance upon the earnings of the Chicago and Eastern Illinois was responsible, perhaps, for the cheerfulness with which the Frisco undertook the financial responsibility. Indeed, there was a notable increase in the gross operating revenue of that road from $6,000,000 in 1901 to $15,000,000 in 1912. But the management was not successful in achieving economy; the operating expenses increased with striking rapidity (fourfold), and the operating ratio rose from 54.75 to over 80 per cent. The increased cost of materials and labor does not constitute a sufficient explanation of such an increase.

In assigning causes for the Frisco insolvency, the commission laid emphasis upon the disproportionate amount of funded indebtedness, the acquisition of new lines, the financing of the South

Texas lines, the Chicago and Eastern Illinois deal, sale of securities at low prices, payment of unearned dividends on preferred stock, investment in stocks of non-dividend-paying industrial companies, and payment of excessive charges upon the investment in and use of terminal and coal properties.

Less than two months after the report upon the Frisco situation, the financial methods of the management of one of the great and supposedly carefully administered railway properties of the middle west were brought to the attention of the public in the report of the commission upon the Chicago, Milwaukee and St. Paul Railway Company.[11]

To bolster up the income of the St. Paul road for 1910, the income account of that year was made to include all the interest, rents and revenues, over four million six hundred thousand dollars, arising out of the construction of the Puget Sound road in previous years. At the same time, operating expenses were given an artificial decrease of more than five hundred thousand dollars by crediting to the current year the salvage of cars destroyed previous to July 1, 1909. Since they had not been taken care of previously, these items should have been handled through the profit and loss account. After the Puget Sound road had been opened, construction of branch lines, etc., still continued to be active, and, according to the accusation of the commission, large amounts that should have been charged as expenses of operation were entered under the head of cost of construction. Furthermore, notwithstanding the requirement of the commission, laid down in the classification of operating expenses issued in 1907, that depreciation should be annually charged on equipment, the accounts of the company failed to show any such provision. These accusations constitute a lamentable indictment against the St. Paul of endeavoring to deceive its stockholders and the investing public as to the true financial status of the company. By the artifices above mentioned, the Puget Sound road was enabled to contribute a 2 per cent dividend towards the St. Paul's dividend of 1911, thus enabling the latter company to make a fictitious showing of a dividend earned entirely out of current income.

The overstatement of income for the year 1909–10 led to a book decrease in revenue and income, during the following year, of more than two million dollars, which the company's report explained

[11] *29 Interstate Commerce Commission Reports*, p. 508.

as due to its inability to obtain increased rates, and the great increase in the cost of labor. Actually, the wage bill of the St. Paul for 1910–11 was nearly fifty-six thousand dollars less than that for 1909–10.

The balance sheet of the Puget Sound road was also distorted to the extent of showing a property investment of $100,000,000 greater than was actually the case. As explained by the president of the St. Paul, the directors of that company were unable to accept the stock of the Puget Sound road as the binding security for the advances made to the latter, and so they had that company issue first mortgage bonds approximating in amount the $200,000,000 of constructional cost. But the law of the state of Washington, under which the Puget Sound road was incorporated, forbade the issue of funded debt beyond twice the amount of capital stock. To meet this requirement, this company had to issue to the St. Paul an additional $100,000,000 of stock, which was carried on the books of the parent company at merely a nominal value. The explanation, though it makes clear that in this matter there was no intent to deceive, was a very lame and unsatisfactory one. An accounting could have been made in accordance with the commission's regulations that would have shown, on the Puget Sound balance sheet, a discount on securities sold of the $100,000,000 of stocks issued less the nominal amount for which this was carried on the St. Paul balance sheet, the item being entered under deferred assets; or an explanatory note could have been attached to the balance sheet explaining the reason for the irregularity.

The most recent of the financial investigations of the Interstate Commerce Commission has been that into the condition of the Chicago, Rock Island and Pacific Railway Company, the final hearings in connection with which were held last June.[12] The acquisition of the control of the Rock Island in 1901 by Reid, Leeds and the two Moores, the subsequent organization of the two holding companies, the Chicago, Rock Island and Pacific Railroad Company of Iowa, and the Rock Island Company of New Jersey, with a capitalization of $200,000,000 for the former and of $150,000,000 for the latter, the concentration of control in the preferred stock of the New Jersey corporation, all these matters are familiar to the reader and need not be rehearsed here, but there are certain

[12] *36 Interstate Commerce Commission Reports*, pp. 43–31.

less familiar facts that deserve attention here since they throw a lurid light upon the possibilities of financial manipulation by such men as those already named.

Apparently, the rights of the stockholders in the earnings of the company were deemed of little account. Salaries shown on the payroll were supplemented by secret allowances and bonuses. Presents of considerable sums were made to both officers and members of the Board of Directors. About a million dollars was distributed to officials of the railway company in excess of their salaries. Irregular payments were made for "supporting the market, while the bonds of the railway company were being sold," for contributions to campaign committees, for rebates to a Denver newspaper, for securing discontinuance of a line of road being constructed between Peoria, Illinois, and Clinton, Iowa.

Misrepresentation of assets was made unblushingly. As late as June, 1914, the railway company carried an amount of nearly six million, two hundred thousand dollars as surplus, based upon: (1) a book value of nearly three and three-quarter million dollars ascribed to the securities of the Trinity and Brazos Valley Railway, a company then in the hands of receivers; (2) a book value of $6,000,000 of Clover Leaf bonds, secured only by Chicago and Alton Railroad stock having a current market value of little more than one and one half million dollars; (3) a book value of $200,000 of the stock of a Nebraska railway company and a construction company that had no existence except on paper; (4) a book value of nearly six million dollars attributed to the worthless five per cent debenture bonds of the Iowa holding company. As pointed out by the commission, a proper valuation of assets would have changed the so-called surplus into a deficit of nearly twelve million dollars.

In general, financing operations of the Rock Island management seem to have been distinguished by anything but business acumen. When the fear of action under the Sherman law caused the divorce of the combined Rock Island-Frisco interests, the sum realized by the sale of the Frisco stock, which had been deposited as collateral for the bonds of the Iowa company, was insufficient to redeem the latter, but the Iowa company, with no resources of its own, issued seven and one-half million dollars worth of bonds to the Chicago, Rock Island and Pacific Railway, almost at par, the latter raising the cash by a bank loan. One million, three hundred and eighty-

eight thousand dollars' worth of these bonds was retired later, but the remaining $6,112,000 was unable to be retired by the Iowa company as it had no assets. The Rock Island's investments in the stock of the Chicago and Alton Railroad ended in a loss of over six million dollars.[13] Its agreement with the Colorado and Southern for the financing of the Trinity and Brazos Valley Railway also ended unfortunately. Advances of nearly three and three-quarter million dollars were made, upon which unpaid interest had accrued, to June 30,1914, of another three-quarter million dollars—in a property whose annual income accounts have been replete with deficits and which finally went into the hands of a receiver.

The incorporation of the Consolidated Indiana Coal Company, in April, 1905, was made the occasion for paying, out of the treasury of the railway company to the general counsel of the latter, a $30,000 a year official, the sum of $10,000 for drawing up the incorporation papers. The railway guaranteed the coal company's bonds, and in consideration thereof received $2,400,000 (out of $3,400,000) capital stock. To June 30, 1914, the railway company had advanced $2,354,000 to the coal company, and, since 1910, unpaid interest has amounted to more than four hundred thousand dollars additional.

Other curious transactions might be mentioned, as, for instance, that in which the railway company sold bonds of the Rock Island Improvement Company (a subsidiary of the holding companies organized to acquire transportation equipment and facilities for the railway company) at less than par, only to buy them back at more than par some six months later.

The ultimate result of the Reid-Moore syndicate was to throw the railway into a receivership. Here again, apparently, the sinister nature of the syndicate's policy is perceptible. It seems pretty clear that the railway could have arranged to meet all its pressing obligations, in spite of the growing unsatisfactoriness of its financial condition, but the syndicate wanted a receivership, presumably for purposes of its own, and, without the knowledge of and regardless

[13] It has been suggested that the object of the Reid-Moore syndicate in purchasing the Frisco was to avoid duplication of new railroad building, and that the investment in the Chicago and Alton was with the idea of securing a better line east of Kansas City than the admittedly unsatisfactory line of the Rock Island. But if these were the objects of the transactions, they nevertheless ended in disastrous failure.

of the interests of the stockholders, and without acquainting the representative of the minority stockholders on the Board of Directors of its intention, made application to the court. The bill for receivership seems to have been completed by the general counsel of the company on March 29; though this fact was known only to a select few. It is worthy of notice that, between that date and the date of filing, April 20, the stock of the railway company began to be largely dealt in on the market. The suspiciousness of this is undeniable but there is no absolutely conclusive evidence that the Reid-Moore people helped to create the artificial price that was reached on the Exchange. The editor of the *Railway Age Gazette* expresses his opinion, which, though not conclusive, is worthy of respect, that this whole stock movement looked "far more like an attempt of a clique of comparatively small speculators to put up the price than any attempt on the part of the controlling interests to make a market on which they could unload their holdings." [14] However this may be, a more reprehensible example of financial jugglery, incompetence and heartless disregard of the interests of investors than that of the Reid-Moore administration would be hard to find. The syndicate took hold of a property whose shares were valued at $175 and upwards on the market; by the time their manipulations were completed, the shares were selling at a mere ninth or tenth of that value, and for no small part of that decrease the syndicate must be held responsible.

The above recital of the facts disclosed by the inquiries of the Interstate Commerce Commission speaks for itself. Disillusionment must surely have come to many who have had unquestioning confidence in the supreme ability and unerring foresight of our statesmen of private finance. There has been too great a tendency in financial circles to place the responsibility that legally accrues to each individual taking part in the management of industrial enterprises upon the shoulders of ambitious colleagues. Of course, the individual of unusual ability will always be able, and it is desirable that he should be able, to exercise a powerful influence upon the management. But this should not and must not be allowed to justify improper and dangerous concentration of power through the neglect of directors to direct.

Our present type of railway directorate, and no doubt this

[14] *Railway Age Gazette.* June 11, 1915, p. 1228.

applies to other fields of industrial administration, needs reorganization. The example set by the government in its prosecution of eleven directors of the former New Haven régime will have a salutary influence in this direction. Every effort should be made to hold directors to a strict accounting for maladministration of property committed to their care. Such a policy, vigorously pursued, would undoubtedly lessen the inclination of directors to treat their responsibilities as merely nominal. There would be fewer instances of plural directors, physically incapable of keeping close supervision over the managerial policies of their various companies. Railway companies would be well advised to restrict the number of directors upon their boards, and to see that each directorate is composed largely of men in close touch with their properties. It should be made obligatory upon every interstate common carrier to place, after the name of each director in the annual report not only his place of residence but also the amount of his bona-fide stock holdings in the company, and there should be included in the report a tabular statement, based upon the individual affidavits of the directors, showing for each director his holdings of securities in other common carriers.

Each annual report of interstate common carriers should be required to state in as plain a form as practicable not only the nature and amount of all securities disposed of during the current fiscal year but also the nature and amount of expenditures made out of the resulting funds. In the case of properties purchased outright or in which a controlling interest has been acquired, the amount paid in cash or securities or in both should be specified and a brief description given of the property acquired and of the purpose of acquisition. Corresponding information should be furnished in the case of leases. A statement of all guarantees of interest or dividend payments assumed should be given. It is satisfactory to note that a good deal of this information is now included in the reports of, at any rate, the larger companies.

To facilitate more exact assessment of the standard of maintenance maintained by each railway administration, there should be required in each annual report: (1) a record of the main classes of equipment, with the average age of each class; (2) a record of track conditions, specifying the proportion of heavy and light rails, mileage of ballast of each class, subclassified so as to show depth of ballast, number of treated and untreated ties, with average number

of years already in track; (3) a structural report classifying the main structures according to their component materials.

The above measure of protection to investors represents as far as it is wise to proceed at the present, probably, for, despite the powers enjoyed by the commissions of certain states, it is doubtful whether the Interstate Commerce Commission, or any other governmental agency, is in a position to control effectively and safely the issue of railway securities. But the strictest scrutiny of all financial transactions of the larger interstate carriers should be maintained and no hesitation felt in holding a public inquiry where the situation seems to call for it. However, as between federal and state control of securities, there need be little hesitation in preferring the former.

It is but proper to say that the opinion of the commission, as expressed in several places, but most fully in its report upon "The New England Investigation,"[15] is that adequate regulation of interstate railroads is impossible without national control of their issues of stocks and bonds, as well as all leases or purchases of one railroad by another, all acquisition of securities, all guarantees, and, furthermore, that no interstate railroad should be allowed to expend money or incur liability or acquire property "not in the operation of its railroad or in the legitimate improvement, extension or development of that railroad." Such an attitude is a very natural reaction after the revelations of its inquiries, and Congress is not likely to need much inducement to approve of it.[16]

[15] *27 Interstate Commerce Commission Reports*, p. 616.

[16] The Clayton Act of October, 1914, specifically forbids corporations from acquiring the whole or any part of the stock or share capital of another corporation where the effect may be substantially to lessen competition, to restrain commerce, or to tend to create a monopoly. It also forbids any interstate common carrier, after two years from the date of the enactment, to deal in securities or supplies, etc., or to enter into construction or maintenance contracts, more than fifty thousand dollars in amount, with any other organization when the former has any director or responsible official who is at the same time an officer of or has a substantial interest in the latter, unless the dealings, contracts, etc., are based upon the most favorable competitive bids.